

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to Figure 3. This sheet, which includes Figure 3, replaces the original sheet including Figure 3.

Attachment: Replacement Sheet

REMARKS

This application has been amended in a manner that is believed to have placed it in condition for allowance at the time of the next Official Action.

Claims 14-34 have been added. Support for claims 14-34 may be found generally throughout the specification and in the original claims.

In the outstanding Official Action, the drawings were objected to for allegedly referring to reference characters 7 and 38 not referenced in the specification. The drawings have been amended to delete these reference numerals.

The drawings were also objected to under 37 CFR 1.83 (a) because the incubation chamber and hydraulic circulation vessel recited in claims 8 and 9, respectively, were not shown in any of the drawings. Applicants submit herewith a replacement sheet for Figure 3. Figure 3 corresponds to Fig. 1 without the optical bench 51 and the optical and resistivity measurement circulation vessel 53. The replacement sheet uses reference number 9 to identify the incubation chamber. In addition, reference numeral 62 has been replaced by reference numeral 52. Indeed, reference number 52 in Figure 1 corresponded to reference numeral 62 in Figure 3.

In view of the above, applicants respectfully request that the objection be withdrawn.

Claims 1, 3, 5 and 13 were objected to for reciting the phrase "in particular". However, the new claims have been drafted so the phrase is no longer recited. As a result, applicants respectfully request this objection be withdrawn.

Claims 1 and 6-11 were rejected under 35 USC 112, first paragraph, for allegedly not satisfying the written description requirement.

Claim 1 has been amended so the phrase "the syringes comprising an air pump (15, 16), said air pump comprising at least a syringe (15, 16)" is no longer recited.

Claims 6-11 were rejected for reciting the phrases "may be" and "able to be fixed". The Official Action alleged that claims 6-11 did not satisfy the written description requirements because the elements which were recited within these claims (e.g., dilution chamber, measurement chamber, incubation chamber, hydraulic circulation vessel, optical bench and card) were not described in the specification in this manner.

However, as the Examiner is aware, the original claims form part of the original disclosure. In that claims 6-11 are recited with developments "may be" or are "able to be fixed", the disclosure satisfies the written description requirement. Thus, in view of the above, applicants respectfully request that the written description rejection be withdrawn.

Claims 8-10 were rejected under 35 USC 112, first paragraph, for allegedly not satisfying the enablement requirement. This rejection is traversed.

The Official Action rejected claims 8-10 on the grounds that one skilled in the art would not know how the incubation chamber, hydraulic circulation vessel and optical bench would be "fixed to the collector". However, applicants respectfully submit that one skilled in the art would know how to attach or "fix" an element to the collector. Applicants also believe that one of ordinary skill in the art would understand how to operate an incubation chamber, hydraulic vessel and optical bench. Moreover, applicants note that the figures have been clarified to illustrate how the incubation chamber and hydraulic recirculation vessel may be "fixed" within the context of the claimed invention.

Indeed, the Official Action fails to provide any evidence to the contrary. The Examiner is respectfully reminded that it is a well founded principle that any assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubt so expressed.

As a matter of law, the expressed teaching of the patent specification cannot be controverted by mere speculation and unsupported assertions on the part of the Patent Office. As

stated by the Court of Customs and Patent Appeals in the case of
In re Dinh-Nguyen and Stanhagen, 181 USPQ 46 (CCPA 1974):

Any assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubt so expressed. 181 USPQ at 47.

Such a standard must be applied with great care when the Examiner's conjecture is contrary to the teachings of the specification.

As the Official Action fails to present any evidence that one skilled in the art would not know how to make or use the invention as recited in claims 8-10, applicants respectfully request that enablement rejection be withdrawn.

Claims 4, 6, 9 and 12 were rejected under 35 USC 112, second paragraph, for allegedly being indefinite. This rejection is traversed.

Claim 4 has been amended so that the phrase "with a view" is no longer recited.

Claim 6 has been amended so that the phrase "it comprises" is no longer recited.

Applicants submit that the term "dilution chamber" would have been definite to one skilled in the art. At page 3, lines 5-15 of the specification, it is indicated that the dilution chamber is "fixed on the collector". Applicants also note that the original claims indicate the dilution chamber "may be" fixed on the clutch and/or indirectly linked directly to a

respective electronic switch valve by duct among the second ducts.

As to the phrase "hydraulic circulation vessel", applicants believe that the phrase is definite. Nevertheless, the syringe block can additionally comprise certain "elements" necessary for the functioning of the apparatus into which it is integrated. These "elements" are advantageously fixed on the collector, which thus serves as a support. Among these "elements" can be at least a dilution chamber 52 and/or a measurement chamber 52 and/or an incubation chamber 52 and/or an optical and resistivity measurement circulation vessel 53 and/or an optical bench 51. The dilution chamber, measurement chamber, incubation chamber, an optical and resistivity measurement circulation vessel and/or optical bench may be fixed on the collector and/or linked directly to a respective electronic switch valve by a duct among the second ducts (pg. 3, lines 5-20; see also pg. 4, lines 27-28).

The phrases are also plainly identified in the figures.

The new claims have been drafted in a manner so that the phrase "it is placed in an air-conditioned enclosure" is no longer recited.

In view of the above, applicants ask that the rejections be withdrawn.

Claims 1-7 and 13 were rejected under 35 USC 103(a), for allegedly being unpatentable over MELET. This rejection is traversed.

There are automatic blood analysis devices that utilize several syringes such as MELET. However, in MELET (US 6,555,065 B1), syringes 11, 12, 13 are dedicated to reagents and are driven by a motor M2. The apparatus of MELET also comprises an air pump 14 which is remote from the syringe block 10. The air pump itself is driven by another motor M1. MELET does not disclose or suggest to drive pistons 11, 12, 13 in the same manner as the air pump. On the contrary, MELET suggests the use of a specific motor for each functional part of the apparatus, which leads to four different motors M1, M2, M3, M4.

Thus, MELET stands in contrast to the claimed invention.

It is one of the aims of the present invention to optimize the design of the syringe block to reduce the risks of breakdown and various leaks. Another aim is to reduce the maintenance time and costs in maintaining such a syringe block (see description page 1, lines 8-29). Driving all the syringes together with one of them forming an air pump results in a lower number of ducts and small dimensions. By doing so, the costs are dramatically reduced and reliability is increased.

As a result, it is believed that MELET fails to anticipate the claimed invention.

As a result, applicants respectfully request that the obviousness rejection be withdrawn.

Claims 3, 9 and 11 were rejected under 35 USC 103(a), as allegedly being unpatentable over MELET in view of BACHENHEIMER. This rejection is respectfully traversed.

BACHENHEIMER discloses a particle analysis system containing a face plate member and a mating flexible member, one of which has a plurality of passages. The passages provide a path for various fluids to follow within the system. However, applicants respectfully submit that BACHENHEIMER fails to disclose or suggest an apparatus that drives the pistons by the same way as the air pump as recited in the claimed invention. Accordingly, applicants respectfully submit that BACHENHEIMER fails to remedy the deficiencies of MELET for reference purposes and asks that the rejection be withdrawn.

Claim 8 was rejected under 35 USC 103(a) as allegedly being unpatentable over MELET in view of KIM. This rejection is traversed.

MELET is deficient for reference purposes for the reason noted above.

KIM discloses a multi-purpose reagent system for rapid analysis of a whole blood sample allowing the termination of at least five classes of peripheral white blood cells, nucleated red blood cells and lymphocyte immunophenotyping on automated hematology instrumentation. KIM does not disclose or suggest an

apparatus that drives pistons in the same manner as an air pump. Accordingly, applicants believe that KIM fails to remedy the deficiencies of MELET for reference purposes and asks that the rejection be withdrawn.

Claim 12 was rejected under 35 USC 103(a), as allegedly being unpatentable over MELET in view of JOTTIER. This rejection is traversed.

MELET is deficient for reference purposes for the reason noted above.

JOTTIER describes a reactor for preparing and analyzing fluids. JOTTIER does not disclose or suggest an apparatus that drives the pistons in the same manner as an air pump as recited in the claimed invention. Accordingly, applicants believe that JOTTIER fails to remedy the deficiencies of MELET for reference purposes.

Thus, applicants respectfully submit that the proposed combination of MELET in view of JOTTIER fails to render obvious the claimed invention.

In view of the present amendment and the foregoing remarks, therefore, applicants believe that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Charge the fee of \$25 for the one claim of any type added herewith to our credit card.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- ☒ - a Replacement Sheet for Figure 3 of the drawings